

POLICY AND STRATEGY

Tax policy report: **Cabinet paper – Collection of IRD numbers for the transfer of main homes**

Date:	2 May 2019	Priority:	High
Security level:	In Confidence	Report number:	IR2019/235

Action sought

	Action sought	Deadline
Minister of Revenue	<p>Agree to recommendations</p> <p>Authorise the lodgement of the attached Cabinet paper</p> <p>Refer a copy of this paper to the Minister of Finance and the Minister for Land Information</p>	10 am Thursday 16 May

Contact for telephone discussion (if required)

Name	Position	Telephone
s 9(2)(a)	Senior Policy Advisor	s 9(2)(a)
s 9(2)(a)	Senior Policy Analyst	

2 May 2019

Minister of Revenue

Cabinet paper – Collection of IRD numbers for the transfer of main homes

Introduction

1. This report asks you to consider the attached draft Cabinet paper *Collection of IRD numbers for the transfer of main homes* and, following any changes you wish to make, refer it to Cabinet office by 10 am Thursday 16 May so that it may be considered by the Cabinet Economic Development Committee (DEV) at its meeting on Wednesday 22 May 2019.
2. This report seeks your agreement to the following:
 - Removal of the exemption for transfers by individuals of a main home from the requirements to provide IRD numbers (and if the person is tax resident in another country, the name of that country and their tax identification number (TIN) for that country) when transferring a property.
 - A remedial amendment to update the reference in the Tax Administration Act 1994 information collection, use and disclosure provisions; and to update the reference to the Land Transfer Act 1952 to the current section in the Land Transfer Act 2017.
 - Inclusion of the amendments in a Supplementary Order Paper (SOP) to the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill at the Committee of the whole House stage.
3. These amendments follow the recommendation made by the Tax Working Group to require disclosure of IRD numbers on the Land Transfer Tax Statement when transferring a main home. The Government's response to this recommendation was to consider as a high priority for inclusion on the tax policy work programme.
4. Amendments could be made to the Land Transfer Act 2017 to give effect to this recommendation in the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill. This could be achieved by introducing a SOP at the Committee of the whole House stage of this bill.
5. The inclusion of the proposed amendments in this current tax bill would allow for a swift response to the Tax Working Group's recommendation and send a signal to property speculators that the Government will continue to act to improve compliance with the property tax rules.
6. Introducing these amendments by SOP at the Committee of the whole House stage carries some risk as the legislative amendments will not be subject to consultation as part of the select committee process. To help mitigate this, we propose to consult with key stakeholders on the drafting of the SOP.
7. A regulatory impact analysis on the proposal to require tax information upon transfer of a main home was undertaken as part of the original amendments to the Land Transfer Act in 2015. Inland Revenue's preferred option in this analysis was not to have an exemption from providing IRD numbers and TINs when the transfer involves a main home. We are seeking an exemption from further RIA requirements.
8. We have consulted with the Treasury and Land Information New Zealand (LINZ). Due to time constraints we will consult with Statistics New Zealand and the Office of the Privacy Commissioner on the draft Cabinet paper attached to this report.

Requirement to provide IRD number when the transfer involves a main home

9. The Land Transfer Act 2017 contains provisions requiring the completion of a Land Transfer Tax Statement by both the transferor (seller) and transferee (purchaser) before the transfer of a residential property may be registered. These provisions were introduced in September 2015.
10. There is an exemption for providing an IRD number and, if applicable any TINs for another country, if the transfer involves an individual's main home. (Trusts need to provide their tax information when the transfer involves a main home). If the transfer meets the main home criteria the transfer will qualify as a "non-notifiable" transfer for the transferor and/or transferee.
11. The current exemption creates a gap in information provided to Inland Revenue and consequently reduces the enforcement benefits from collecting tax information at the point of property transfer. For example, this makes it more difficult to identify property speculators.
12. We consider that the transferor or transferee should still be asked if the property being transferred is their main home. This main home indicator allows Inland Revenue to identify taxpayers who should be sent follow-up information and correspondence advising of the property tax rules and those who are unlikely to have tax obligations arising from the property transfer. This is useful for both enforcement purposes, and also to ensure that the follow-up information is appropriately targeted to customers. Officials will consider whether the main home definition can be simplified for the purpose of this indicator.
13. However, we note that requiring transferors or transferees to provide this information will lead to a minor increase in compliance costs. We will work with LINZ to explore options for simplifying the main home definition and streamlining transfer forms to mitigate these costs.

Requirement to provide TIN and information on overseas jurisdictions

14. Transferors and transferees who are tax resident^[1] in another country must include on the Land Transfer Statement their TIN ^[2] and the name of the jurisdiction in which they are tax resident unless an exemption applies.
15. This information is reported to other countries to help prevent global tax evasion.
16. If a tax resident of another country claims the main home exemption, they do not need to provide their TIN and the name of the jurisdiction when transferring property except in limited circumstances (for example, if the person is not a New Zealand citizen nor a resident for immigration purposes then they cannot claim the main home exemption).
17. Requiring TINs will help ensure that data provided to treaty partners is easily able to be matched to the correct person. Requiring the reporting of TINs for property sales would go beyond current international requirements, but would be consistent with the AEOI/CRS financial reporting requirements that apply when individuals open new bank accounts, and would position New Zealand favourably as a leader in international efforts to combat tax evasion.

^[1] Generally, a person is tax resident in another country if that country imposes income tax obligations on the person's worldwide income.

^[2] A TIN is the unique identifier that is given to a taxpayer by a jurisdiction's tax authority. A person's IRD number is a TIN in the context of New Zealand.

Remedial amendment to references in the Tax Administration Act 1994

18. The Tax Administration Act 1994 includes an information disclosure provision which allows information to be disclosed between authorised persons for the purposes of the tax information provisions in the Land Transfer Act. The current legislation refers to the relevant provisions in the Land Transfer Act 1952, which has been superseded by the Land Transfer Act 2017. We consider this reference should be updated to reflect the current provisions in the Land Transfer Act 2017.

Opportunities for process simplification

19. Removing the main home exemption will provide an opportunity to re-design and simplify the Land Transfer Tax Statement and other forms before the proposed amendments come into force.
20. We also consider that there are other opportunities for simplification of the process, such as:
- Allowing direct provision of tax information from LINZ to Statistics NZ. (Statistics NZ publish quarterly property transfer statistics based mainly on Land Transfer Tax Statements)
 - Clarifying the provisions relating to citizenship and visa status in the Land Transfer Act 2017, as the present provisions create some uncertainty about what information is being sought.
 - Making all transfers by executors and administrators non-notifiable.
 - Considering whether transfers by foreign governments should be non-notifiable.
21. These potential improvements could be considered as a separate project over a longer period of time. Part of this work could also include consideration of whether the sale price could be collected as part of the Land Transfer Tax Statement.

Legislative vehicle

22. We have drafted the Cabinet paper on the basis that the amendments should be included in the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill by way of a Supplementary Order Paper introduced at the Committee of the whole House stage.
23. Introducing the amendments as soon as possible will enable the Government to send an immediate signal that they are committed to addressing property speculation and will closely follow the Government's announced response to the Tax Working Group's recommendations. The amendments could have a commencement date of 1 April 2020. This delayed commencement date would allow time to consult with stakeholders, such as the New Zealand Law Society, on the design of the form and process implications before the legislation comes into force. In addition, this commencement date provides the required lead-in time of six months in order to make necessary changes to Landonline.
24. An alternative legislative option would be to include the amendment in an omnibus tax bill scheduled for introduction in June/July of 2019. The advantage of this option is that it would provide the opportunity for the proposed legislation to go through the select committee process and would reduce the risk of unintended consequences. However, this would delay the Government's decision to legislate and act on the recommendation made by the Tax Working Group. If this legislative vehicle is chosen, the amendments could have a commencement date of 1 October 2020.

25. The key trade-off between these two options is the ability to bring the proposal into effect as soon as practicable (1 April 2020 compared with 1 October 2020 or later) and the opportunity for the proposed legislative amendments to go through consultation as part of the select committee process. Under both options, we would consult with key stakeholders on the design of the form before the amendment comes into force.
26. To mitigate the risk of unintended consequences that may arise due to including the changes by SOP, officials propose to consult with key stakeholders (such as New Zealand Law Society and Auckland District Law Society) on the drafting of the SOP at the earliest possible date.

Recommended action

We recommend that you:

27. **agree** to remove the exemption from providing a person's IRD number and, if applicable, any tax identification numbers when a transfer of property relates to the person's main home.

Agreed/Not agreed

28. **agree** to include an indicator on the Land Transfer Tax Statement to identify whether it is the person's main home.

Agreed/Not agreed

29. **agree** to a related remedial amendment to the Tax Administration Act 1994 to replace the reference to the Land Transfer Act 1952 with a reference to the current section in the Land Transfer Act 2017.

Agreed/Not agreed

30. **agree** to include the amendments above in a Supplementary Order Paper to the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill at the Committee of the whole House stage.

Agreed/Not agreed

31. **agree** that key stakeholders should be consulted on the drafting of the SOP.

Agreed/Not agreed

32. **authorise** the lodgement of the attached Cabinet paper (following any amendments you make) with the Cabinet Office by 10 am Thursday 16 May for the Cabinet Economic Development Committee to consider at its meeting on 22 May 2019;

Authorised/Not authorised

s 9(2)(a)

Senior Policy Advisor
Policy and Strategy

Hon Stuart Nash
Minister of Revenue
/ /2019